

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

*

Case No.: **10-cr-00212-RDB**

vs.

*

GREGORY A. WHYTE,

*

Defendant.

*

DEFENDANT'S MOTION

- (1) FOR LEAVE OF COURT TO OBTAIN THE TRIAL TRANSCRIPT,
(2) FOR LEAVE OF COURT TO FILE AN AMENDED MOTION FOR NEW TRIAL AND
MEMORANDUM OF LAW IN SUPPORT THEREOF,
(3) FOR A HEARING ON THE AMENDED MOTION FOR NEW TRIAL, AND
(4) TO CONTINUE SENTENCING UNTIL AFTER THE HEARING ON THE AMENDED
MOTION FOR NEW TRIAL**

Defendant Gregory Alfred Whyte, through his additional counsel, Byron L. Warnken, and Warnken, LLC, Attorneys-at-Law, files Defendant's Motion (1) for Leave of Court to Obtain the Trial Transcript, (2) for Leave of Court to File an Amended Motion for New Trial and Memorandum of Law in Support Thereof, (3) for a Hearing on the Amended Motion for New Trial, and (4) to Continue Sentencing until after the Hearing on the Amended Motion for New Trial, and asserts:

1. In addition to this motion, undersigned counsel files (a) an Entry of Appearance as Additional Counsel, and (b) Defendant's Motion for New Trial and Request for Hearing.

2. Undersigned additional counsel was just retained as additional counsel, and today – the first day of representation – is also the last day permitted to file a Motion for New Trial.

3. To this point, undersigned additional counsel (a) has only been able to obtain information from Mr. Whyte, (b) has not been able to make contact with Mr. Whyte's trial counsel, and (c) has not

been able to order a transcript of all prior proceedings, much less conduct a review of such transcript.

4. In the interests of justice, undersigned additional counsel respectfully urges this Court to (a) grant leave of Court and permit undersigned additional counsel to (i) order the trial transcript, (ii) analyze that transcript, (iii) conduct legal research on any issue presented by that transcript, (iv) file an Amended Motion for New Trial and Memorandum of Law in Support Thereof, if applicable; and (b) grant a hearing on such Amended Motion for New Trial.

5. In the interests of justice, undersigned additional counsel respectfully urges this Court to continue the sentencing hearing, now scheduled for December 10, 2010, to approximately 30 days following the date of the hearing on the Amended Motion for New Trial, in the event that the Motion for New Trial is not granted.

6. Because Mr. Whyte is incarcerated, there will be no prejudice to the Government if this Court were to continue the sentencing proceeding. However, there may be prejudice to Mr. Whyte if undersigned additional counsel does not have sufficient time to adequately represent Mr. Whyte on the Amended Motion for New Trial.

Therefore, undersigned counsel, on behalf of Mr. White, respectfully urges this Court to sign the attached proposed Order, granting

- (1) Defendant's Motion for Leave of Court to obtain the trial transcript;
- (2) Defendant's Motion for Leave of Court to file an Amended Motion for New Trial and Memorandum of Law in Support Thereof, and
- (3) Defendant's Motion to Continue Sentencing until after a Hearing on the Amended Motion for New Trial.

Respectfully submitted,

Byron L. Warnken
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Additional Counsel for Mr. Gregory A. Whyte
October 5, 2010

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

*

Case No. 10-cr-00212-RDB

vs.

*

GREGORY A. WHYTE

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2010, a copy of the foregoing Defendant's Motion (1) for Leave of Court to Obtain the Trial Transcript, (2) for Leave of Court to File an Amended Motion for New Trial and Memorandum of Law in Support Thereof, (3) for a Hearing on the Amended Motion for New Trial, and (4) to Continue Sentencing until after the Hearing on the Amended Motion for New Trial, which was electronically filed in this case on October 5, 2010, was sent via electronic notice via CM/ECF and/or by first class mail, postage prepaid, to:

John Francis Purcell, Jr., Esq.
Office of the United States Attorney
36 South Charles Street (Fourth Floor)
Baltimore, MD 21201

Sujit Raman, Esq.
Office of the United States Attorney
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Alan R. Bussard, Esq.
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/s/

Byron L. Warnken,
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October 5, 2010